

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Avi Kliger et al.
Application No. : 09/943,424
Filed : August 30, 2001
Title of the Invention : HOME NETWORK SYSTEM AND METHOD
Art Unit : 2616
Examiner : Cassandra Decker
Confirmation No. : 7853

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Arguments to Accompany the Pre-Appeal Brief Request for Review

Dear Sir:

Applicants respectfully traverse the rejections set forth in the Office Action mailed June 12, 2009 in connection to the above-captioned application. Applicants allege that the rejection of claims 71-106 under 35 U.S.C. 103(a) was deficient at least because the Examiner combined incompatible references.

The claimed invention relates to a home network having a plurality of network modules. The network modules are coupled to a demarcation point unit via a coax backbone. The demarcation point unit is located at the entry point into a home. Direct communication is established between each of the network modules over the coax backbone.

The Examiner has rejected pending independent claims 71, 82 and 96 under 35 U.S.C. 103(a) as being obvious from Petler U.S. Patent No. 6,081,519 (hereinafter, "Petler") in view of Silverman U.S. Patent No. 6,307,862 (hereinafter, "Silverman") further in view of Bell U.S. Patent No. 6,229,818 (hereinafter, "Bell"). The Examiner

has further rejected independent claims 71, 82 and 96 under 35 U.S.C. 103(a) as being obvious from Bushmitch U.S. Patent No. 6,950,399 (hereinafter, “Bushmitch”) in view of Silverman further in view of Bell.

In the Examiner’s rejection of independent claims 71, 82 and 96 as being obvious over Petler in view of Silverman, the Examiner stated: “it would have been obvious to a person of ordinary skill in the art at the time of the invention to use the demarcation unit and master module taught by Silverman in the home networking method taught by Petler.” Final Office Action at pages 4, 7 and 9.

Petler teaches a Fiber-to-the-Curb (FTTC) network. System signals are sent over a subscriber network from a first device in a home to an FTTC terminal located remote from the home. The signals are then routed from the FTTC terminal back to the home. In the home, the signals are received by a second device. See Petler, Abstract. Petler’s system teaches away from in-home control of device-to-device communication, stating that “in-home coaxial network *is not well suited* for sending signals directly from one device to another.” Petler, col. 2, lines 38-39, emphasis added.

Silverman teaches establishing a local area network (LAN) using in-home coaxial cable. A CATV cable terminates at a channel stripper that is installed in a home and connected to in-home coaxial cable. See Silverman, FIGS. 1 and 5, col. 1, lines 51-52 and col. 2, lines 63-64. The channel stripper removes signals from one or more CATV channels. The stripped channels form a signal path between a LAN controller and peripheral devices over the in-home coaxial cable. See Silverman, Abstract. The LAN formed by the stripped channels may be located “in a home, an office building, or other dwelling.” Silverman, Col. 1, lines 38-39. Because the channel stripper is located at the termination point of the CATV cable, “any data contained in the downstream components is effectively blocked from entering the CATV cable 3 that supplies the cable television signals. Therefore, problems existing in the LAN 20 *cannot* be transmitted to the CATV device 2, for example.” Silverman, Col. 5, lines 11-16, brackets omitted, emphasis added. Therefore, applicants assert that Silverman teaches preventing signals from exiting the home. Accordingly, the signals on the in-home LAN in Silverman cannot leave the home.

It is settled law that when the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being

modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. MPEP 2143.02 (VI).

Applicants respectfully submit that combining the demarcation point unit and master module discussed in Silverman with the home networking method taught by Petler is legally deficient. The portion of Petler quoted above at col. 2, lines 38-39, teaches away from an in-home coaxial network *while Silverman's system is restricted to an in-home coaxial network*. Because Petler taught that Silverman's in-home coaxial network is undesirable, Petler's home networking method cannot be combined with Silverman's demarcation point unit and master module to teach independent claims 71, 82 and 96 of the above-captioned application.

In the Examiner's rejection of independent claims 71, 82 and 96 as being obvious over Bushmitch in view of Silverman, the Examiner stated: "it would have been obvious to a person of ordinary skill in the art at the time of the invention to use the demarcation unit and master module taught by Silverman in the home networking method taught by Bushmitch." Final Office Action at pages 14, 16 and 19.

Bushmitch teaches a method for transmitting data packets in a bi-directional cable network environment. The network includes a system controller that receives upstream channel packets and originates downstream channel packets. At least one remote terminal receives the downstream packets and originates the upstream packets. See Bushmitch, Summary of the Invention, col. 1, lines 49-54. Bushmitch's system controller is a "quality of service scheduling mechanism suitable for transporting variable bit-rate video over a DOCSIS (data over cable system interface specification) compliant cable." Bushmitch, Background of the Invention, col. 1, lines 39-42. Bushmitch states that "[i]n DOCSIS, the cable modem termination system (CMTS) *at the cable headend* and the cable modems (CMs) at the customer premises constitute a point to multi-point communication network." Col. 1, lines 17-20, emphasis added. The CMTS is the "system controller" taught by Bushmitch. See col. 3, lines 36-37. Thus, the system controller taught by Bushmitch is located at the cable headend.

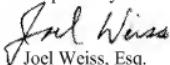
Applicants respectfully submit that combining the demarcation point unit and master module discussed in Silverman with the home networking method taught by Bushmitch is also deficient. Bushmitch's system controller is located at a cable headend and *not* at a customer premise. As quoted above, data contained in Silverman's LAN is transmitted over in-home coaxial cable and is blocked from

entering the CATV cable that is external to the home. It follows that Silverman's system does not permit signals to exit the home and be transmitted to a cable TV headend. Accordingly, the home networking method of Bushmitch cannot be combined with Silverman's master module and demarcation point unit, because Bushmitch's home networking method transmits data from the home to a cable headend and Silverman's master module is *unable* to send data outside the home. Silverman's master module cannot send data outside the home because Silverman's splitter, which is located at the CATV termination point, restricts all LAN communications to the in-home cable. Thus, Bushmitch's home networking method cannot be combined with Silverman's master module to teach independent claims 71, 82 and 96 of the above-captioned application.

In conclusion, neither Petler nor Bushmitch can be combined with Silverman to form a device (or provide a method) as claimed in independent claims 71, 82 and 96 without changing the principle of operation of the devices discussed in Petler and Bushmitch. Specifically, and as explained in more detail above, it is improper to incorporate the discussion of the out-of home networks taught by Petler and Bushmitch into the exclusively in-home network taught by Silverman.

Thus, the cited references which form the rejection of independent claims 71, 82 and 96 under 35 U.S.C. 103(a) are deficient. The cited references are deficient because they teach mutually exclusive systems and thus cannot be combined. Accordingly, whether taken alone or in combination, the cited references do not show a method or device as claimed in the independent claims 71, 82, and 96. Therefore, the Petler and Bushmitch references, combined with Silverman, cannot form an obviousness rejection for the above-captioned application.

Respectfully submitted,



Joel Weiss, Esq.
Weiss & Arons, LLP
Customer Number 72,822
1540 Route 202
Suite 8
Pomona, New York 10970

Dated: August 6, 2009